

San Francisco Bay Regional Water Quality Control Board

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January 23, 2014
File Nos. 43S0051 & 43S0188 (RWP)

Hewlett Packard Company
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Varian Medical Systems
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john.buchanan@varian.com

SUBJECT: Approval of *Addendum to the February 17, 2013 Revised Work Plan for Indoor Air Testing* and Requirement for Report for 640 Page Mill Road, Palo Alto, Santa Clara County

Dear Mr. Paschke and Mr. Buchanan:

This letter responds to your December 13, 2013, *Addendum to the February 17, 2013 Revised Work Plan for Indoor Air Testing* (Addendum). As explained below, I approve the Addendum and require you to submit a report documenting implementation of the Addendum.

Background

Our March 12, 2012, letter (Letter) conditionally approved Hewlett Packard's and Varian's February 17, 2013, *Revised Work Plan for Indoor Air Testing* (Workplan). You then implemented the Workplan in the off-property residential area of the California-Olive-Emerson (COE) plume and found no detectable levels of trichloroethene (TCE) levels in indoor air. However, an emerging body of data referenced in USEPA's December 3, 2013, *EPA Region 9 Guidelines for Vapor Intrusion Evaluations at South Bay National Priority List (NPL) Sites* (Guidelines) indicates that the COE vapor intrusion evaluation is incomplete without additional data. After USEPA discussed the basis for the Guidelines with you in several meetings, you submitted the Addendum and we emailed the Guidelines to you on December 5, 2013.

Addendum Summary

The Addendum incorporates the Workplan by reference and proposes the following additional activities to evaluate vapor intrusion:

JOHN MULLER, CHAIR | BRUCE H. WOLFE, EXECUTIVE OFFICER

- Sampling as follows:
 - On- and off-property commercial indoor air overlying plume areas with groundwater-TCE levels higher than 100 micrograms per liter, with the heating, ventilation, and air conditioning (HVAC) system turned off for at least 36 hours prior to and during sampling.
 - Off-Property residential indoor air overlying plume areas with groundwater-TCE levels higher than 50 micrograms per liter a concurrent with crawl space or basement air sampling at those residences previously sampled in April, July and September 2012, in cold weather.
- Collecting grab samples to evaluate potential preferential pathways for soil vapor to enter buildings.
- Using Method TO-15 Summa canisters over a 24-hour sampling period for residential buildings and over a 10-hour period for commercial buildings.
- Comparing the indoor air testing results with outdoor air levels, USEPA interim TCE indoor short-term response action levels, and long-term screening levels.
- Evaluating further phased potential indoor air vapor intrusion investigations, including potential sampling where commercial and residential buildings overly plume areas with groundwater-TCE levels higher than 5 micrograms per liter.

Regional Water Board Response

I hereby approve the Addendum as the next phase of vapor intrusion evaluation.

However, we recommend an alternate means of assessing average concentrations over a longer period of exposure than 24 hours while still utilizing the TO-15 canisters. Specifically, you can conduct two closely spaced sampling events one or two weeks apart, ideally timed during a period of colder weather. Regardless of whether these sampling events can be timed to coincide with cooler temperatures, multiple sampling rounds facilitate an evaluation of data variability from other factors than just temperature such as time-dependent changes in soil gas entry rates, building exchange rates, and intra-building mixing.

You are required to submit a report by **May 15, 2014**, documenting the implementation of the Addendum. The report should evaluate the sampling results and make recommendations for the next phase of vapor intrusion investigation.

This requirement for a report is made pursuant to Water Code Section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

If you have any questions, please contact Roger Papler of my staff at (510) 622-2435
[e-mail rpapler@waterboards.ca.gov].

Sincerely,

A handwritten signature in cursive script that reads "Stephen Hill". Below the signature, the word "for" is written in a smaller, simpler script.

Digitally signed by Stephen
Hill
Date: 2014.01.23 12:17:51
-08'00'

Bruce H. Wolfe
Executive Officer

Attachment: 13267 Fact Sheet
cc w/Attachment: Mailing List

MAILING LIST

USEPA

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San Francisco Bay Regional Water Quality Control Board

Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report?

Section 13267¹ of the California Water Code provides that “...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

Revised January 2014

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.